

CRIMINAL PROCEDURE

SUPPLEMENTARY CASEBOOK

FALL 1999

**MICHAEL CODE and
JONATHAN DAWE
SACK GOLDBLATT MITCHELL
20 Dundas Street West
Suite 1130
Toronto, Ontario
M5G 2G8**

Telephone No. (416) 977-6070

RA LASKIN LAW LIBRARY

AUG 23 1999

FACULTY OF LAW
UNIVERSITY OF TORONTO

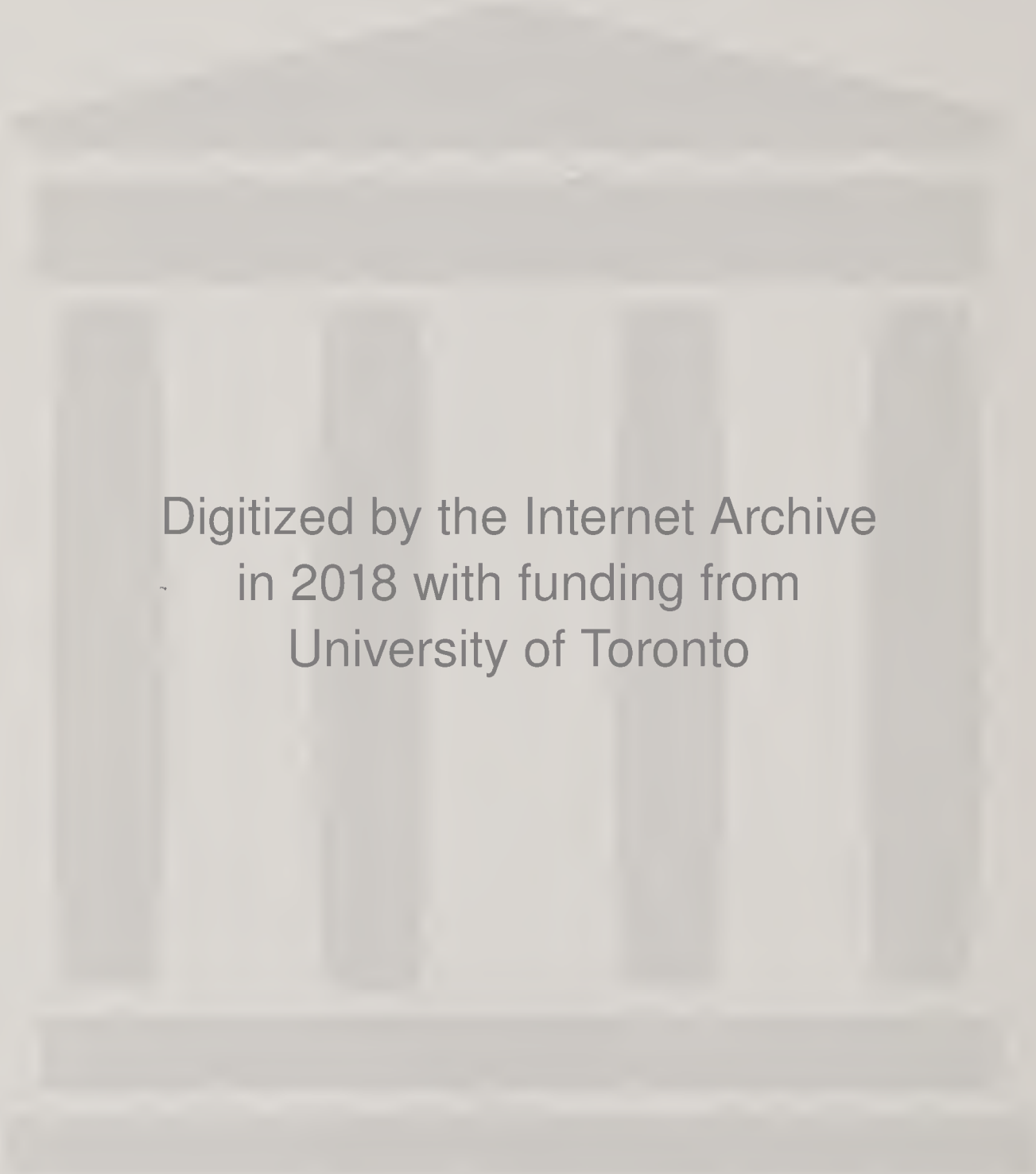
CRIMINAL PROCEDURE

SUPPLEMENTARY CASEBOOK

FALL 1999

**MICHAEL CODE and
JONATHAN DAWE
SACK GOLDBLATT MITCHELL
20 Dundas Street West
Suite 1130
Toronto, Ontario
M5G 2G8**

Telephone No. (416) 977-6070



Digitized by the Internet Archive
in 2018 with funding from
University of Toronto

**CRIMINAL PROCEDURE
UNIVERSITY OF TORONTO
FACULTY OF LAW**

SYLLABUS

MICHAEL CODE & JONATHAN DAWE

REQUIRED READING MATERIAL:

- (i) Tremeeear's 1999 Criminal Code (or any other current Criminal Code)
- (ii) Delisle & Stuart, Learning Canadian Criminal Procedure, 5th Ed. 1998, Carswell
- (iii) Code, Supplementary Casebook

Class 1

I. JURISDICTION

- (i) Courts and Classification of Offences
 - Criminal Code, Ss.468-473 and s.785
 - Delisle & Stuart: pp.1-7
 - Code Supplement:
Mewett, Introduction to the Criminal Process

- (ii) Time Limitations: Trial within a reasonable time
 - Criminal Code, s.786
 - Charter, s.11(b) and s.7
 - Delisle & Stuart: pp.8-40
 - Code Supplement:
Smith v. The Queen (1989), 73 C.R. (3d) 1 (S.C.C.)
Askov et al. v. The Queen (1990), 59 C.C.C. (3d) 449 (S.C.C.)
Collins and Pelfrey v. The Queen (1995), 99 C.C.C. (3d) 385 (S.C.C.)

Class 2

I. JURISDICTION (cont'd)

(iii) Territorial jurisdiction, jurisdiction over the person and offence, loss of jurisdiction

- Criminal Code, s.7, ss.468-470, ss.475-479, s.485, s. 537(1) j & k, s.544, and s.650
- Charter, s.7 and s.14
- Delisle & Stuart, pp.41-48
- Code Supplement:
R.v. McMorris and Francis (1971), 4 C.C.C. (2d) 268 (Ont.Dist.Ct.)
R. v. Liesmer and MacDougall, April 19, 1990 (Ont.Prov. Ct.)
Doyle v. The Queen (1976), 29 C.C.C. (2d) 177 (S.C.C.)
R. v. Krannenburg (1980), 51 C.C.C. (2d) 205 (S.C.C.)
R.v. Thompson (1980), 51 C.C.C. (2d) 212 (S.C.C.)
Barrow v. The Queen (1987), 38 C.C.C. (3d) 193 (S.C.C.)
Cote & Vezina v. The Queen (1986), 23 C.C.C. (3d) 481 (S.C.C.)
R. v. Cloutier (1988), 43 C.C.C. (3d) 35 (Ont.C.A.)
Sullivan v. The Queen (1986), 27 C.R.R. 1 (Ct.Mar.App.Ct.)
Tran v. The Queen (1994), 92 C.C.C. (3d) 218 (S.C.C.)
Phillips & Parry v. The Queen (1997) 113 C.C.C. (3d) 481 (S.C.C.)

(iv) Change of Venue

- Criminal Code, s.599
- Delisle & Stuart: pp. 49-53
- Code Supplement:
R. v. Talbot (1977), 38 C.C.C. (2d) 555 (Ont.H.C.J.)

Classes 3 and 4

II. SEARCH AND SEIZURE

- Criminal Code, s.117.02, s.487, s.487.1, s.487.11, s.489
- Charter, s.8
- Delisle & Stuart, pp.57-62, 70-80 and 128-176
- Code Supplement:
Re Zevallos and The Queen (1987), 37 C.C.C. (3d) 79 (Ont.C.A.)
Collins v. The Queen (1987), 33 C.C.C. (3d) 1 (S.C.C.)
Re Den Hoy Gin (1965), 47 C.R. 89 (Ont.C.A.)
R. v. Sismey (1990), 55 C.C.C. (3d) 281 (Ont.C.A.)
Bisson et al v. A.G. Canada (1994), 94 C.C.C. (3d) 94 (S.C.C.)
Descoteaux et al v. Mierzwinski and A-G of Quebec. et al. (1983), 70 C.C.C. (2d) 385 (S.C.C.)

Baron v. The Queen (1993), 18 C.R. (4th) 374 (S.C.C.)
Simmons v. The Queen (1988), 45 C.C.C. (3d) 296 (S.C.C.)
R. v. Debot (1986), 30 C.C.C.(3d) 207 (Ont.C.A.);
 aff'd 52 C.C.C. (3d) 193 (S.C.C.)
R. v. Grant (1993), 84 C.C.C. (3d) 173 (S.C.C.)
Stillman v. The Queen (1997), 113 C.C.C. (3d) 321 (S.C.C.)
Caslake v. The Queen (1998), 121 C.C.C. (3d) 97 (S.C.C.)

Class 5

III. ARREST, COMPELLING APPEARANCES OF ACCUSED AND CHARGING THE ACCUSED

- Criminal Code, ss.493-514, Ss.30-31, s.528
- Charter, s.9
- Delisle & Stuart: pp. 202-251
- Code Supplement;
Ladouceur v. The Queen (1990), 56 C.C.C. (3d) 22 (S.C.C.)
R. v. Mellenthin (1992) 76 C.C.C. (3d) 481 (S.C.C.)
R. v. Simpson (1993), 79 C.C.C. (3d) 482 (Ont.C.A.)
R. v. Feeney (1997), 115 C.C.C. (3d) 129 (S.C.C.)
R. v. Godoy (1998), 21 C.R.(5th) 205 (S.C.C.)

Class 6

IV. JUDICIAL INTERIM RELEASE

- Criminal Code, ss.515-526, s.145, Ss.766-7, Ss.679-680, s.683(5) and s.261
- Delisle & Stuart: pp. 253-278
- Code Supplement:
R. v. Dakin, unreported, August 8, 1989 (Ont.C.A.)
R. v. Dewsbury (1989), 50 C.C.C. (3d) 163 (Ont.H.C.J.)
R. v. Buxbaum (1989), 70 C.R. (3d) 20 at pp.27-8 (Ont.C.A.)

Class 7

V. ELECTIONS, PRELIMINARY INQUIRY AND DISCLOSURE

- Criminal Code, ss.535-572 (Parts 18 and 19); Ss.603-5, s.625.1, s.645(5) and s.650(3)
- Charter, ss.7 and 11(d)
- Delisle & Stuart: pp. 534-566
- Code Supplement:

R. v. Hoffman, September 15, 1992 (Ont.C.A.)
R. v. Goldstein & Caicedo (1988), 42 C.C.C. (3d) 548 (Ont.C.A.)
R.v. Stewart (1988), 44 C.C.C. (3d) 109 (Ont.C.A.)
Re Cover and The Queen (1988), 44 C.C.C. (3d) 34 (Ont.H.J.C.)
R. v. Al-Amoud (1992), 10 O.R. (3d) 676 (Ont.Ct.Gen.Div.)
Stinchcombe v. The Queen (1992), 68 C.C.C. (3d) 1 (S.C.C.)
R. v. Douglas (1991), 5 O.R. (3d) 29 (Ont.C.A.); aff'd 12 O.R. (3d) 800 (S.C.C.)
Carosella v. The Queen (1997), 112 C.C.C. (3d) 289 (S.C.C.)

Class 8

VII. FORM OF THE INDICTMENT, JOINDER AND SEVERANCE

- Criminal Code, ss.574-601
- Delisle & Stuart; pp. 618-677
- Code Supplement:
Cote & Vezina v. The Queen, *supra*
R. v. Saunders, sub. nom. Rooke & Devries (1990), 56 C.C.C. (3d) 220 (S.C.C.)
G.B. et al v. The Queen (1990), 56 C.C.C. (3d) 200 (S.C.C.)
Clunas v. The Queen (1992), 70 C.C.C. (3d) 115 (S.C.C.)

Classes 9 and 10

VIII. PLEAS AND VERDICTS

- Criminal Code, ss.606-614 and Ss.660-662
- Charter, s.11(h)
- Delisle & Stuart: pp. 574-582 and pp. 678-751
- Code Supplement:
Grdic v. The Queen (1985), 19 C.C.C. (3d) 289 (S.C.C.)
Regina v. Moore (1988), 41 C.C.C. (3d) 481 (S.C.C.)

Classes 11 and 12

IX. TRIAL BY JURY

- Criminal Code, ss.626-655
- Charter, s.11(f)
- Delisle & Stuart, pp. 752-869

Class 13**X. ROLES OF DEFENCE COUNSEL AND PROSECUTOR**

- Delisle & Stuart: pp. 473-533
- Code Supplement:
Law Society of Upper Canada Rules of Professional Conduct, 1992:
 - i) Rule 10, including all Commentaries
 - ii) Rule 8, including all Commentaries

CRIMINAL PROCEDURE
SUPPLEMENTARY CASEBOOK

INDEX

	<u>Page No.</u>
Mewett, <u>Introduction to the Criminal Process</u> , pp.65-72	1
<u>Smith v. The Queen</u> (1989), 73 C.R. (3d) 1 (S.C.C.)	7
<u>Askov et al. v. The Queen</u> (1990), 59 C.C.C. (3d) 449 (S.C.C.)	16
<u>Collins and Pelfrey v. The Queen</u> (1995), 99 C.C.C. (3d) 385 (S.C.C.)	41
<u>R. v. McMorris and Francis</u> (1971), 4 C.C.C. (2d) 268 (Ont.Dist.Ct.)	47
<u>R. v. Liesmer and MacDougall</u> , April 19, 1990 (Ont.Prov.Ct.)	49
<u>Doyle v. The Queen</u> (1976), 29 C.C.C. (2d) 177 (S.C.C.)	75
<u>R. v. Krannenburg</u> (1980), 51 C.C.C. (2d) 205 (S.C.C.)	82
<u>R. v. Thompson</u> (1980), 51 C.C.C. (2d) 212 (S.C.C.)	86
<u>Barrow v. The Queen</u> (1987), 38 C.C.C.(3d) 193 (S.C.C.)	87
<u>Cote & Vezina v. The Queen</u> (1986), 23 C.C.C. (3d) 481 (S.C.C.)	105
<u>R. v. Cloutier</u> (1988), 43 C.C.C. (3d) 35 (Ont.C.A.)	117
<u>Sullivan v. The Queen</u> (1986), 27 C.R.R. 1 (Ct.Mar.App.Ct.)	127
<u>Tran v. The Queen</u> (1994), 92 C.C.C. (3d) 218 (S.C.C.)	137
<u>Phillips & Parry v. The Queen</u> (1997), 113 C.C.C. (3d) 481 (S.C.C.)	146
<u>R. v. Talbot</u> (1977), 38 C.C.C. (2d) 555 (Ont. H.C.J.)	151
<u>Re Zevallos and The Queen</u> (1987), 37 C.C.C. (3d) 79 (Ont.C.A.)	155
<u>Collins v. The Queen</u> (1987), 33 C.C.C. (3d) 1 (S.C.C.)	160

<u>Re Den Hoy Gin</u> (1965), 47 C.R. 89 (Ont.C.A.)	172
<u>R. v. Sismey</u> (1990), 55 C.C.C. (3d) 281 (Ont.C.A.)	174
<u>Bisson et al v. A.G. Canada</u> (1994), 94 C.C.C. (3d) 94 (S.C.C.)	177
<u>Descoteaux et al. v. Mierzwinski and A-G of Quebec et al</u> (1983), 70 C.C.C. (2d) 385 (S.C.C.)	179
<u>Baron v. The Queen</u> (1993), 18 C.R. (4th) 374 (S.C.C.)	190
<u>Simmons v. The Queen</u> (1988), 45 C.C.C. (3d) 296 (S.C.C.)	211
<u>R. v. Debot</u> (1986), 30 C.C.C. (3d) 207 (Ont.C.A.)	231
<u>Debot v. The Queen</u> (1989), 52 C.C.C. (3d) 193 (S.C.C.)	244
<u>R. v. Grant</u> (1993), 84 C.C.C. (3d) 173 (S.C.C.)	260
<u>Stillman v. The Queen</u> (1997), 113 C.C.C. (3d) 321 (S.C.C.)	276
<u>Caslake v. The Queen</u> (1998), 121 C.C.C. (3d) 97 (S.C.C.)	291
<u>Ladouceur v. The Queen</u> (1990), 56 C.C.C. (3d) 22 (S.C.C.)	300
<u>R. v. Mellenthin</u> (1992), 76 C.C.C. (3d) 481 (S.C.C.)	313
<u>R. v. Simpson</u> (1993), 79 C.C.C. (3d) 482 (Ont.C.A.)	320
<u>R. v. Feeney</u> (1997), 115 C.C.C. (3d) 129 (S.C.C.)	333
<u>R. v. Godoy</u> (1998), 21 C.R.(5th) 205 (S.C.C.)	351
<u>R. v. Dakin</u> , unreported, August 8, 1989 (Ont.C.A.)	358
<u>R. v. Dewsbury</u> (1989), 50 C.C.C. (3d) 163 (Ont.H.C.J.)	360
<u>R. v. Buxbaum</u> (1989), 70 C.R. (3d) 20 at (Ont.C.A.)	363
<u>R. v. Hoffman</u> , September 15, 1992 (Ont.C.A.)	367
<u>R. v. Goldstein & Caicedo</u> (1988), 42 C.C.C. (3d) 548 (Ont.C.A.)	374

<u>R. v. Stewart</u> (1988), 44 C.C.C. (3d) 109 (Ont.C.A.)	381
<u>Re Cover and The Queen</u> (1988), 44 C.C.C. (3d) 34 (Ont.H.C.J.)	384
<u>R. v. Al-Amoud</u> (1992), 10 O.R. (3d) 676 (Ont.Ct.Gen.Div.)	386
<u>Stinchcombe v. The Queen</u> (1992), 68 C.C.C. (3d) 1 (S.C.C.)	390
<u>R. v. Douglas</u> (1991), 5 O.R. (3d) 29 (Ont.C.A.); aff'd 12 O.R. (3d) 800 (S.C.C.)	400
<u>Carosella v. The Queen</u> (1997), 112 C.C.C. (3d) 289 (S.C.C.)	404
<u>R. v. Saunders, sub. nom. Rooke & Devries</u> (1990), 56 C.C.C. (3d) 220 (S.C.C.)	418
<u>G.B. et al v. The Queen</u> (1990), 56 C.C.C. (3d) 200 (S.C.C.)	421
<u>Clunas v. The Queen</u> (1992), 70 C.C.C. (3d) 115 (S.C.C.)	432
<u>Grdic v. The Queen</u> (1985), 19 C.C.C. (3d) 289 (S.C.C.)	439
<u>Regina v. Moore</u> (1988), 41 C.C.C. (3d) 289 (S.C.C.)	448
Professional Conduct Handbook: Rules 10 and 8	461